

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

C.A. No: 09-40041-FDS

SAMUEL CHENG)	
Plaintif)	<u>JOINT MOTION TO CONTINUE STATUS</u>
)	
v)	
)	<u>CONFERENCE ON OCTOBER 28, 2011</u>
SUNOCO INC. (R&M))	
Defendant)	

Now come the parties and move to continue the status conference now set for 4:00 P.M. on October 28, 2011 to another date for the following reason:

The United States Bankruptcy Court had alluded to in dicta that if the Trustee in Bankruptcy and Samuel Cheng could agree on the amount of a bond, the Court would (1) look favorably on allowing the claim against Sunoco now pending before the District Court to proceed to trial and (2) would find that the offer of Sunoco to compromise the claim against it for \$25,000 would not be in the best interests of Cheng's creditors and would therefore reject the Trustee's Motion to Settle the Sunoco claim.

Cheng and the Trustee have agreed on a bond amount; Cheng has paid the bond amount to Attorney Pitnof who is holding it in his client escrow account; and subject to the Trustee retaining Attorney Pitnof to proceed with the District Court litigation the bond funds will be transferred to the Trustee.

The Bankruptcy Court has stated that a further hearing is necessary for it to approve the above-referenced matters. As of this date, the Trustee has not retained Attorney Pitnof, although it is anticipated he shall do so shortly and bring all matters before the Bankruptcy Court for one last hearing on the issue of Sunoco's offer to settle and proceeding with the trial in the District Court.

Until this final order of the Bankruptcy Court, the automatic stay remains in place.

WHEREFORE the parties jointly move the status conference be continued for a later date so that the Bankruptcy Court can make final rulings on the matters before it.

SAMUEL CHENG
By his attorney

/Nathaniel D. Pitnof/

Nathaniel D. Pitnof
BBO 400660
100 Grove Street
Worcester MA 01605
508-757-3000

SUNOCO, INC. R&M
By its attorney

/Michael Levinson/

Michael Levinson
BBO 666108
100 North Main Street
Providence RI
401-272-2800

CERTIFICATE OF SERVICE

I, Nathaniel D. Pitnof, hereby certify that I have served this document upon counsel for the defendant, Michael Levinson, by e-mailing him on October 27, 2011 a copy prior to the filing with the Court in order that he may review it before allowing the filing as an assented-to motion.

/Nathaniel D. Pitnof/

Nathaniel D. Pitnof